

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**VHS OF MICHIGAN, INC., d/b/a
DETROIT MEDICAL CENTER,**

Plaintiff,

Case No.:

v

Hon. Leslie Kim Smith

**UNITED MEDICAL RESOURCES,
and UMR, INC.,**

State Court Case No.: 16-011250-CZ

Defendants.

NOTICE OF REMOVAL

Please take notice that Defendants United Medical Resources and UMR, Inc. file this Notice of Removal in the United States District Court for the Eastern District of Michigan, Southern Division from the Wayne County Circuit Court. In support of this Notice, Defendant states as follows:

1. On or about September 26, 2016, Plaintiff filed its first amended complaint naming United Medical Resources and UMR as Defendants. Defendants received a copy of the summons and complaint on November 14, 2016. This was the first notice of the case Defendants received.

2. Pursuant to 28 U.S.C. § 1446(a), attached as Exhibit 1 is a copy of the summons and complaint.

3. Defendants received service of the complaint via certified mail on December 1, 2016, and they have not been served with any other papers, pleadings or orders in this matter.

4. Defendants have not filed any papers or pleadings in this action. This Notice of Removal is filed within thirty days of Defendants' receipt of Plaintiff's first amended complaint and is filed timely under 28 U.S.C. § 1446(b).

5. Defendants are the claims administrator for the William Beaumont Hospital Group Insurance Arrangement of Welfare Plans (the "Plan") which is a self-funded employee welfare benefit plan organized under and existing pursuant to the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1001 *et seq.* The Plan is sponsored by the William Beaumont Hospital.

6. Plaintiff's first amended complaint alleges breach of contract against Defendants for failing to provide benefits on behalf of non-party Kush Sood, a Plan participant, as a result of care and treatment alleged to have been provided by Plaintiff to Kush Sood following a motor vehicle accident.

9. Even though no federal question may be apparent from the face of Plaintiff's first amended complaint, federal question removal is proper here under the complete preemption corollary to the well pleaded complaint rule under which a plaintiff's purported state-law claim is re-characterized as a federal claim. See *Caterpillar Inc. v. Williams*, 482 U.S. 386, 393 (1987).

10. "[S]tate common law claims for benefits under an employee benefit plan regulated by ERISA are preempted as long as the lawsuit relates to an employee benefit plan." *Wright v. Gen. Motors Corp.*, 262 F.3d 610, 613 (6th Cir. 2001).

11. Plaintiff's first amended complaint alleges that Kush Sood is entitled to benefits under the Plan, and seeks to enforce Kush Sood's rights under the Plan. Plaintiff's first amended complaint against the Defendants, therefore, should be characterized as an ERISA action under 29 U.S.C. § 1132(a)(1)(B), and removal is proper under the exception to the well-pleaded complaint rule.

13. This action is not an action described in 28 U.S.C. § 1445.

14. By filing this Notice of Removal, Defendants do not waive any defense that may be available to them, including defects as to service of process, venue or jurisdiction or standing.

15. This Notice of Removal is signed pursuant to Federal Rules of Civil Procedure 11 and in accordance with 28 U.S.C. § 1446. The statements and allegations herein are true and correct to the best of the knowledge and belief of the undersigned upon review of the materials available.

16. Written notice of the filing of this Notice of Removal, together with a copy of this Notice of Removal and the attached exhibits, will be served upon

counsel for all other parties and is being filed with the Clerk of the Wayne County Circuit Court pursuant to 29 U.S.C. § 1446(d).

17. Based on the foregoing, Defendants have met the burden of establishing that this Court has original federal question jurisdiction over this civil action pursuant to 28 U.S.C. § 1331 because the complaint asserts claims arising under the laws of the United States, and that this action is one that may be removed to this Court by Defendant pursuant to 28 U.S.C. § 1441.

WHEREFORE, Defendants give notice that the above action, initiated in the Wayne County Circuit Court is hereby removed to the United States District Court for the Eastern District of Michigan, Southern Division for the reasons set forth above.

Respectfully submitted,

FRASER TREBILCOCK
Attorneys for Defendants

Dated: December 12, 2016

By: /s/ Thaddeus E. Morgan

Thaddeus E. Morgan (P47394)
Fraser Trebilcock
124 West Allegan Street, Suite 1000
Lansing, Michigan 48933
tmorg@fraserlawfirm.com
Tel. (517) 482-5800

EXHIBIT 1

STATE OF MICHIGAN THIRD JUDICIAL CIRCUIT WAYNE COUNTY	SUMMONS AND COMPLAINT	CASE NO. 16-011250-CZ Hon. Leslie Kim Smith
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2 Woodward Ave., Detroit MI 48226

Court Telephone No. 313-224-2427

Plaintiff VHS of Michigan, Inc. d/b/a Detroit Medical Center (Kush Sood)	v	Defendant UMR, Inc.
Plaintiff's Attorney Sean F. Kelly, P-59975 28470 W 13 Mile Rd Ste 300 Farmington Hills, MI 48334-5400		Defendant's Attorney

SUMMONS NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state). (MCR 2.111[C])
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued 9/ 1/2016	This summons expires 12/ 1/2016	Court clerk File & Serve Tyler
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*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

COMPLAINT *Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.*☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.**Family Division Cases**☐ There is no other pending or resolved action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties.☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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General Civil Cases☐ There is no other pending or resolved civil action arise out of the same transaction or occurrence as alleged in the complaint.☐ An civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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VENUE

Plaintiff(s) residence (include city, township, or village)	Defendant(s) residence (include city, township, or village)
Place where action arose or business conducted	

Date _____ Signature of attorney/plaintiff _____

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.



STATE OF MICHIGAN THIRD JUDICIAL CIRCUIT WAYNE COUNTY	PROOF OF SERVICE	CASE NO. 16-011250-CZ
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TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE

<input type="checkbox"/> OFFICER CERTIFICATE I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)	OR	<input type="checkbox"/> AFFIDAVIT OF PROCESS SERVER Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)
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☐ I served personally a copy of the summons and complaint,

☐ I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint, together with _____

List all documents served with the Summons and Complaint

_____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

☐ I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of me information, knowledge and belief.

Service fee \$	Miles traveled \$	Mileage fee \$	Total fee \$	Signature _____ Name (type or print) _____ Title _____
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Subscribed and sworn to before me on _____, _____ County, Michigan.

Date

My commission expires: _____

Date

Signature: _____

Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____

Attachments

on

Day, date, time

on behalf of _____

Signature

STATE OF MICHIGAN THIRD JUDICIAL CIRCUIT WAYNE COUNTY	SUMMONS AND COMPLAINT	CASE NO. 16-011250-CZ Hon. Leslie Kim Smith
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2 Woodward Ave., Detroit MI 48226

Court Telephone No. 313-224-2427

Plaintiff VHS of Michigan, Inc. d/b/a Detroit Medical Center (Kush Sood)	v	Defendant United Medical Resources
Plaintiff's Attorney Sean F. Kelly, P-59975 28470 W 13 Mile Rd Ste 300 Farmington Hills, MI 48334-5400		Defendant's Attorney

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Docket no.	Judge	Bar no.
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VENUE

Plaintiff(s) residence (include city, township, or village)	Defendant(s) residence (include city, township, or village)
Place where action arose or business conducted	

Date

Signature of attorney/plaintiff

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STATE OF MICHIGAN THIRD JUDICIAL CIRCUIT WAYNE COUNTY	PROOF OF SERVICE	CASE NO. 16-011250-CZ
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CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE

<input type="checkbox"/> OFFICER CERTIFICATE	OR	<input type="checkbox"/> AFFIDAVIT OF PROCESS SERVER
I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: _____ (notarization not required)		Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: _____ (notarization required)

☐ I served personally a copy of the summons and complaint,

☐ I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint, together with _____

List all documents served with the Summons and Complaint

_____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

☐ I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of me information, knowledge and belief.

Service fee \$	Miles traveled \$	Mileage fee \$	Total fee \$
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Signature _____

Name (type or print) _____

Title _____

Subscribed and sworn to before me on _____, _____ County, Michigan.

Date

My commission expires: _____

Date

Signature: _____

Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____

Attachments

on

Day, date, time

on behalf of _____

Signature

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

VHS OF MICHIGAN, INC., d/b/a
DETROIT MEDICAL CENTER,
(Kush Sood)

Plaintiff,
v

Case No.: 16-011250-CZ
Hon. Leslie Kim Smith

UNITED MEDICAL RESOURCES and
UMR, INC.,

Defendants.

16-011250-CZ
FILED IN MY OFFICE
WAYNE COUNTY CLERK
9/26/2016 9:57:25 AM
CATHY M. GARRETT

MILLER & TISCHLER, P.C.
SEAN F. KELLY (P59975)
Attorney for Plaintiff
28470 W. 13 Mile Road, Ste. 300
Farmington Hills, MI 48334
(248) 945-1040

VHS OF MICHIGAN, INC. d/b/d DETROIT MEDICAL CENTER'S
FIRST AMENDED COMPLAINT
(BY RIGHT)

Plaintiff, VHS of Michigan, Inc. d/b/a Detroit Medical Center ("DMC"), by and through its attorneys, Miller & Tischler, P.C., for its First Amended Complaint against Defendants United Medical Resources and UMR, Inc. (Collectively "Defendants") states:

NATURE OF THE CLAIM

1. This is an action for the payment of medical bills. On or about December 16, 2012, Kush Sood suffered accidental bodily injuries arising out of a motor vehicle accident. DMC provided medical services to Mr. Sood and submitted its bills to Mr. Sood's healthcare provider, UMR, for reimbursement. To date, DMC has not been reimbursed.

PARTIES

2. Plaintiff, DMC, is a provider of medical, therapeutic and rehabilitative services and has its principal offices in Detroit, Wayne County, Michigan.

3. Defendants United Medical Resources and UMR conduct business in Wayne County, Michigan.

JURISDICTION AND VENUE

3. Jurisdiction is proper in this Court because the amount in controversy is greater than \$25,000.00.

4. Venue is proper in accordance with MCL 600.1629, because the Defendants conduct business in Wayne County, Michigan.

FACTUAL ALLEGATIONS

5. Paragraphs 1 through 4 are incorporated as if fully restated.

6. Mr. Sood sustained catastrophic accidental bodily injury arising out of a motor vehicle accident on December 16, 2012.

7. On December 16, 2012, Mr. Sood was entitled to health insurance benefits from Defendants United Medical Resources and UMR.

8. As a result of the December 16th accident, Mr. Sood incurred medical and other expenses which defendants are obligated to pay pursuant to a policy of insurance.

9. DMC provided reasonably necessary medical, therapeutic and rehabilitation services to Mr. Sood.

10. DMC submitted reasonable proof of its charges to Defendants and demanded payment.

11. Despite this demand, DMC remains unpaid for of the services provided to Mr. Sood.

12. Defendants have withheld and/or delayed payment in violation of its statutory and

contractual obligations to provide health benefits.

13. Defendants' actions in withholding and /or delaying payment subjects it to any and all penalties under MCL 500.2006 of the Michigan insurance code for failure to pay all of the benefits to which is DMC is entitled under the defendants health insurance policy. _____

WHEREFORE, Plaintiff DMC asks the Court for the following relief:

- a. Grant injunctive relief compelling defendants to adjust and pay the claims for all reasonably necessary products, services and accommodations related to Mr. Sood's care, recovery and rehabilitation.
- b. Grant judgment pursuant to MCR 2.605 declaring that defendants are liable for health benefits pursuant to its health insurance policy;
- c. Grant judgment against defendants for the total amount of benefits due in addition to costs, RJA interest and any and all penalties under MCL 500.2006 of the Michigan insurance code ;
- d. Order a speedy hearing of this action and advance it on the calendar pursuant to MCR 2.605(D); and
- e. Grant such additional relief as this Court deems just and proper.

Respectfully submitted,

MILLER & TISCHLER, P.C.
/s/ Sean F. Kelly
SEAN F. KELLY (P59975)
Attorney for Plaintiff
28470 W. 13 Mile Rd., Suite 300
Farmington Hills, MI 48334
(248) 945-1040

DATED: September 26, 2016